



## Tobacco Public Policy Center at Capital University Law School

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303 E. Broad Street, Columbus, Ohio 43215 • (614) 236-6770  
Fax: (501) 636-3864 • [www.tobaccopolicy.org](http://www.tobaccopolicy.org)

### **Smoke Free Workplace Act Questions and Answers**

Full text of law can be found at [www.tobaccopolicy.org](http://www.tobaccopolicy.org)

#### *When does the law take effect?*

The Smoke Free Workplace Act becomes law on Dec. 7, 2006.

#### *Who enforces it?*

The Ohio Department of Health will designate, through a rule making process, a local enforcement authority which will most likely be the local departments of health. The Ohio Department of Health has six months from the effective date (December 7, 2006) to adopt rules that outline enforcement procedures. The Ohio Department of Health is required to create a website to explain the law, to set up a hotline to take anonymous complaints, and make businesses aware of the law.

Interested parties may follow the status of the rule adoption process by checking the Ohio Department of Health's website ([www.odh.ohio.gov](http://www.odh.ohio.gov)). Draft rules will be posted on the ODH website for review and comment. In addition to the comment period, ODH will hold a public hearing on the rules prior to their adoption.

Even though ODH has six months to adopt rules, the law is still in effect on December 7, 2006. Public places and workplaces should begin compliance with the law on that date.

#### *What places will be smoke-free?*

The Smoke Free Workplace Act covers all enclosed public places and workplaces. If an establishment has an employee or invites members of the public to enter, the establishment is to be smoke-free.

#### *Are there any exemptions?*

Homes, outdoor patios, certain retail tobacco stores, resident-only smoking rooms in nursing homes, up to 20% of sleeping rooms in a hotel, narrowly defined private clubs.

#### *What private clubs are exempted?*

A private club is exempt if it meets all of the following criteria (as defined in the Ohio Revised Code §4301.01(B)(13)):

- ➔ a corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor,

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or occupant of a permanent building or part of a permanent building operated solely for those purposes,

→ membership in which entails the prepayment of regular dues, and includes the place so operated AND all of the following additional criteria are met:

- the club has no employees,
- the club is organized as a not for profit entity,
- only members of the club are present in the club's building,
- no persons under the age of eighteen are present in the club's building,
- the club is located in a freestanding structure occupied solely by the club,
- smoke from the club does not migrate into an enclosed area where smoking is prohibited, and
- if the club serves alcohol, it holds a valid D4 liquor permit.

#### *What is a retail tobacco store?*

As defined in the Act, a retail tobacco store is a retail establishment that derives more than eighty (80) percent of its gross revenue from the sale of cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories. In addition, the sale of other products must be incidental. A retail tobacco store does not include a tobacco department or section of a larger commercial establishment or of any establishment with a liquor permit or of any restaurant.

#### *What is a business owner's responsibility?*

A proprietor must prohibit smoking in enclosed public places and workplaces and areas near windows and doors, conspicuously post a no-smoking sign at all entrances, and remove all ashtrays and smoking receptacles. The Ohio Department of Health has a sample sign available on their website at <http://www.odh.state.oh.us/>.

#### *How far away from an entrance must smokers be?*

Smoking is prohibited immediately adjacent to entrances and exits. A proprietor of a business must ensure that smoking outside the building is far enough away from doorways or windows so that smoke does not enter the enclosed area.

#### *Can I create an outdoor "butt hut" for my smoking employees?*

The Act defines an "Enclosed Area" as any area that is enclosed by an overhead covering of any kind and walls of any kind on all sides or all sides but one. Therefore, any structure created for smoking employees must not fit the definition of an Enclosed Area in order to allow smoking.

#### *What happens when the law is violated?*

Experiences from cities and states with smoke-free laws show that such laws are generally self-enforcing. Business owners are law-abiding and Ohioans overwhelmingly support the law. Business owners and persons smoking who are in violation of the law after enforcement begins would get a warning letter. Smokers who repeatedly violate the law could face civil fines of up to \$100. Businesses that repeatedly violate the law face fines starting at \$100, but the fine could escalate for repeated violations in a 2-year period, up to \$2500.

#### *Where can I find more information about quitting smoking?*

Information about the Ohio Tobacco Quit Line is available at <http://www.ohioquits.com/> or by calling 1-800-QUIT-NOW.

#### *How can I report violations?*

The Ohio Department of Health has set up a complaint hotline to take complaints regarding those businesses in violation of the law. The number is: 866-559-OHIO (6446)

*How can I get more information?*

The Ohio Department of Health has set up a hotline for anyone to get further information on the Smoke Free Workplace Act. The number is: 866-ODH (634)-7654.

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